

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte VOLKER BECKER, FRANZ LAERMER,
and ANDREA SCHILP

Application No. 09/581,663

MAILED

MAR 18 2004

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on January 15, 2004. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being electronically returned to the examiner. The matters requiring attention prior to docketing are identified below.

On August 15, 2003, appellants filed a reply brief in response to the examiner's answer mailed June 12, 2003. However, there is no indication on the record whether or not the examiner

has responded to the reply brief. Section § 1208.03 of the Manual of Patent Examining Procedure (8th ed., Aug. 2001) states:

[A]ppellant may file a reply brief as a matter of right within 2 months from the mailing date of the examiner's answer. . . . The primary must then either: (A) acknowledge receipt and entry of the reply brief by using form paragraph 12.47 on form PTOL-90; or (B) reopen prosecution to respond to the reply brief. See MPEP § 1208.02.

A review of the file reveals that an amendment was filed on May 22, 2003. Claims 53 and 63 have been amended so that the claims "would be allowable if rewritten in independent form to include the limitations of the base claim and any intervening claims." The examiner has not indicated the status on entry or non-entry of the amendment filed May 22, 2003. Before further review of this file, the examiner must provide a clear indication of the disposition of this amendment.

Accordingly, it is

ORDERED that this application be returned to the examiner for: 1) proper response to reply brief; 2) status on entry or non-entry of the amendment filed May 22, 2003; and 3) for such further action as may be appropriate.

It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the status of this appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS
AND INTERFERENCES

By:

Dale M. Shaw

Dale M. Shaw
Program and Resource Administrator
(703) 308-9797

cc: Kenyon & Kenyon
One Broadway
New York, NY 10004

DMS/td1/mh
RA04-0322